

Senate File 79 - Introduced

SENATE FILE _____
BY KIBBIE

Passed Senate, Date _____ Passed House, Date _____
Vote: Ayes _____ Nays _____ Vote: Ayes _____ Nays _____
Approved _____

A BILL FOR

1 An Act modifying wind energy production tax credit eligibility
2 requirements, providing for a refund of sales and use taxes,
3 and including effective and retroactive applicability date
4 provisions.

5 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

6 TLSB 1671SS 83

7 rn/mg:sc/8

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1 1 Section 1. Section 476B.4, Code 2009, is amended to read
1 2 as follows:

1 3 476B.4 ~~LIMITATIONS~~ LIMITATION.

~~1 4 1. The wind energy production tax credit shall not be
1 5 allowed for any kilowatt-hour of electricity produced on wind
1 6 energy conversion property for which the owner has claimed or
1 7 otherwise received for that property the benefit of special
1 8 valuation under section 427B.26 or section 441.21, subsection
1 9 8, or the exemption from retail sales tax under section
1 10 422.45, subsection 48, Code Supplement 2003, or section 423.3,
1 11 subsection 54, as applicable.~~

1 12 2. The wind energy production tax credit shall not be
1 13 allowed for any kilowatt-hour of electricity that is sold to a
1 14 related person. For purpose of this subsection, persons shall
1 15 be treated as related to each other if such persons would be
1 16 treated as a single employer under the regulations prescribed
1 17 under section 52(b) of the Internal Revenue Code. In the case
1 18 of a corporation that is a member of an affiliated group of
1 19 corporations filing a consolidated return, such corporation
1 20 shall be treated as selling electricity to an unrelated person
1 21 if such electricity is sold to such a person by another member
1 22 of such group.

1 23 Sec. 2. Section 476B.6, subsection 1, paragraph b, Code
1 24 2009, is amended to read as follows:

~~1 25 b. Upon approval of the application, the owner may apply
1 26 for the tax credit as provided in subsection 2. In addition,
1 27 approval of the application is acceptance by the applicant for
1 28 the assessment of the qualified facility for property tax
1 29 purposes for a period of twelve years and approval by the
1 30 board of supervisors for the payment of the property taxes
1 31 levied on the qualified property to the state. For purposes
1 32 of property taxation, An owner may apply for special valuation
1 33 of the qualified facility under a city ordinance or county
1 34 ordinance enacted under section 427B.26 for which the property
1 35 is eligible. If the qualified facility is not eligible for~~

~~2 1 special valuation under a city ordinance or county ordinance,
2 2 the qualified facility shall be centrally assessed, and the
2 3 property tax collected shall be remitted to the state for a
2 4 period of twelve years. A qualified facility shall be exempt
2 5 from any replacement tax under section 437A.6 for the period
2 6 during which the facility is subject to property taxation.
2 7 The property taxes to be paid to the state are those property
2 8 taxes which make up the consolidated tax levied on the
2 9 qualified facility and which are due and payable in the
2 10 twelve-year period beginning with the first fiscal year
2 11 beginning on or after the end of the owner's first taxable
2 12 year for which the credit is applied for. Upon approval of
2 13 the application, the The board of supervisors shall notify the
2 14 county treasurer to state designate on the tax statement which
2 15 lists the taxes on the qualified facility that the amount of
2 16 the property taxes shall to be paid to the department, if~~

2 17 applicable. Payment of the designated property taxes to the
2 18 department shall be in the same manner as required for the
2 19 payment of regular property taxes and failure to pay
2 20 designated property taxes to the department shall be treated
2 21 the same as failure to pay property taxes to the county
2 22 treasurer.

2 23 Sec. 3. REFUNDS. Refunds of taxes, interest, or penalties
2 24 which may arise from claims resulting from the amendment of
2 25 section 476B.4 in this Act, for the exemption of sales of wind
2 26 energy conversion property as provided in section 423.3,
2 27 subsection 54 occurring between January 1, 2009, and the
2 28 effective date of this Act, shall be limited to twenty-five
2 29 thousand dollars in the aggregate and shall not be allowed
2 30 unless refund claims are filed prior to October 1, 2009,
2 31 notwithstanding any other provision of law. If the amount of
2 32 claims totals more than twenty-five thousand dollars in the
2 33 aggregate, the department of revenue shall prorate the
2 34 twenty-five thousand dollars among all claimants in relation
2 35 to the amounts of the claimants' valid claims. Claimants
3 1 shall not be entitled to interest on any refunds.

3 2 Sec. 4. EFFECTIVE AND APPLICABILITY DATES. This Act,
3 3 being deemed of immediate importance, takes effect upon
3 4 enactment and applies retroactively to January 1, 2009, for
3 5 tax years beginning on or after that date.

3 6 EXPLANATION

3 7 This bill modifies eligibility requirements applicable to
3 8 the wind energy production tax credit established in Code
3 9 chapter 476B.

3 10 The bill deletes a provision which had prevented
3 11 eligibility for the wind energy production tax credit for any
3 12 kilowatt-hour of electricity produced on wind energy
3 13 conversion property for which the owner had claimed or
3 14 received specified special property tax valuation or sales tax
3 15 exemptions; thus preserving credit availability for owners
3 16 having received special valuation or having claimed the sales
3 17 tax exemptions. Because of the retroactivity of the
3 18 elimination of the restriction of the receipt of the tax
3 19 credit to those who have not received the sales tax exemption,
3 20 a provision for refund of sales tax paid is included in the
3 21 bill.

3 22 The bill takes effect upon enactment and applies
3 23 retroactively to January 1, 2009, for tax years beginning on
3 24 or after that date.

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3 26 rn/mg:sc/8